IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO EASTERN DIVISION

THOSHA ALLISON,

Petitioner,

CASE NO. 2:12-CV-634

JUDGE SMITH

MAGISTRATE JUDGE ABEL

v.

WARDEN, MADISON CORRECTIONAL INSTITUTION,

Respondent.

OPINION AND ORDER

On August 13, 2013, the Magistrate Judge issued a *Report and Recommendation* recommending that Respondent's *Motion to Dismiss* (Doc. No. 6) be granted and that this action be dismissed as barred by the one-year statute of limitations under 28 U.S.C. § 2244(d) and alternatively, as unexhausted. Petitioner objects to the Magistrate Judge's recommendation of dismissal of this habeas corpus petition as time-barred. Petitioner offers no grounds for his objections, however, and does not indicate that he has exhausted his claims.

Pursuant to 28 U.S.C. 636(b), this Court has conducted a *de novo* review. For the reasons detailed in the Magistrate Judge's *Report and Recommendation*, Petitioner's *Objections*, Doc. No. 14, are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. Respondent's *Motion to Dismiss*, Doc. No. 6, is **GRANTED**. This case is hereby is **DISMISSED**.

Petitioner also seeks a certificate of appealability. Where a claim has where the Court dismisses a claim on procedural grounds, a certificate of appealability

should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid

claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was

correct in its procedural ruling.

Slack v. McDaniel, 529 U.S. 473, 484 (2000). Thus, there are two components to determining

whether a certificate of appealability should issue when a claim is dismissed on procedural

grounds: "one directed at the underlying constitutional claims and one directed at the district

court's procedural holding." The court may first "resolve the issue whose answer is more

apparent from the record and arguments." Id. Petitioner has failed to establish that reasonable

jurists would debate whether this Court appropriately dismissed Petitioner's habeas corpus

petition. His request for a certificate of appealability therefore is **DENIED**.

IT IS SO ORDERED.

\s\ George C. Smith_

GEORGE C. SMITH

United States District Judge